

# **BOARD OF DESIGN REVIEW MINUTES**

**April 1, 2004**

**CALL TO ORDER:** Chairman Mimi Doukas called the meeting to order at 6:30 p.m. in the Beaverton City Hall 3d Floor Conference Room at 4755 SW Griffith Drive.

**ROLL CALL:** Present were Chairman Mimi Doukas, Board Members Jennifer Shipley, Jessica Weathers, and Stewart Straus. Board Members Cecilia Antonio, Ronald Nardoza, and Hal Beighley were excused

Senior Planner John Osterberg, Associate Planner Liz Jones, and Recording Secretary Sheila Martin represented staff.

## **VISITORS:**

Chairman Mimi Doukas read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

## **STAFF COMMUNICATIONS:**

Staff indicated that there were no communications at this time.

## **NEW BUSINESS:**

### **PUBLIC HEARINGS:**

#### **COTTAGE TERRACE CONDOMINIUMS**

1. DR2003-0163 – DESIGN REVIEW THREE
2. SDM2003-0011 - STREET DESIGN MODIFICATION
3. LD2003-0034 – LAND DIVISION

The applicant is requesting Design Review Three, Street Design Modification, and Land Division approval for the construction of 47 dwelling units in a mixture of duplex and single-detached condominiums, in a total of approximately 27 buildings. The Design Review application includes the proposal of public street construction and improvements, landscaping, utilities, pedestrian pathways, parking, retaining walls, fencing, lighting, bicycle parking, and wetland buffer plantings. In addition, the applicant requests a Street Design Modification to modify the City's street design standards for the construction of SW 157<sup>th</sup> Avenue, which is proposed through the site. Specifically, the applicant requests to not construct a sidewalk along the west side of 157<sup>th</sup> and to modify the dimensions of planting strip and sidewalks within the development. Land Division approval is requested for the creation of two lots,

dividing the parcel into two sections. The applicant intends on creating these lots for two phases of development.

Associate Planner Liz Jones presented the Staff Reports briefly explaining the purpose associated with these three applications. She pointed out that there was a revision on page 21 of the Design Review Staff Report, noting that the items beginning with the Conditions of Approval were numbered incorrectly.

Ms. Jones referred to a Staff Memorandum that had been distributed, dated April 1, 2004, with regard to Cottage Terrace Condominiums. She explained that the memo was in response to the findings of the Facilities Review Committee Technical Criterion #3, which concluded that the applicant had not demonstrated that they met the required minimum density due to inconsistent site areas that were listed throughout the application documents. She noted that attached to said memo, the applicant had provided an exhibit that illustrated the density calculations; therefore, meeting the minimum standard for density. She explained that in the event that the site area data changes with the final survey, the Committee recommended that the Board adopt the following Condition of Approval:

Condition of Approval #32

The applicant shall provide documentation that the project complies with the minimum density requirements, as based on the site area and data gathered upon the final survey, prior to Site Development Permit issuance.

Concluding, she submitted the material and color boards and added that staff recommends approval of these applications with the recommended Condition of Approval #32 and offered to respond to any questions.

Board member Straus questioned if Conditions No. 22 and 23 of the Design Review Staff Report would be more applicable as conditions of the associated Tree Plan Two application.

Ms. Jones responded that while the Tree Plan Two application is still under revision, staff will consider incorporating the two conditions in the decision for that application.

**APPLICANT:**

**RANDY TYLER**, Director of Development for Pacific Realty of Oregon, LLC, introduced **EDWARD DARROW**, manager of Pacific Realty of Oregon, LLC. He presented a slide show of the developers past projects and of the proposed application development. Following the slide show he explained how the concepts illustrated in the slides have been incorporated into the site plan and building plans for Cottage Terrace. Concluding, he addressed the applicants concern with the DR2003-0163 - Facilities Review Condition Nos. A-17, C-5, and Conditions No. 24 of said report, and Condition No. 4 included in the LD2003-0034 Staff Report.

Addressing the Facility Review Conditions Nos. A-17 and C-5, Ms. Jones referred to Exhibit 2.3 - Site Visit Photos dated 3-2-04, which demonstrated the proposed pedestrian access. She explained that the proposed location is necessary to provide a connection through the site in lieu of a street connection that was not able to be made because the street spacing is a neighborhood requirement.

Mr. Straus questioned the benefit of creating a short-cut through a pedestrian walkway when there's an existing path available, and surmised that the property to the south will be responsible for the continuation to the pedestrian way on to the east.

Ms. Jones responded that the path would provide more direct pedestrian connectivity than what's proposed.

Chairman Doukas suggested that a path would provide more direct pedestrian connectivity to the area along the west property line if the path was aligned to the north of units 43-47.

Mr. Straus suggested a crosswalk at an appropriate location to ensure safe pedestrian crossing to the opposite side of the street where sidewalks will exist.

#### **PUBLIC TESTIMONY:**

**DON ASHMANKIS** testified on behalf of his daughter and noted that his daughter and granddaughter reside in the Redstone subdivision. He stated that he's neither in favor or opposition of the application. He expressed his concerns regarding the retaining walls and elevations of the retaining walls and requested clarification of same. He also expressed his concern pertaining to the trees that are to be removed. He recommended that as many of the trees that are around the extension of the street on 157<sup>th</sup> coming in from Redstone are retained.

**NICOLE PLUMMER** recommended that the existing line of pine trees located 2-3 feet behind her property line be retained. She also expressed her concerns regarding the sidewalk on her side of the property and question whether the sidewalk will be retained.

Chairman Doukas assured Ms. Plummer that the sidewalk on her side of the property will be retained.

**BRIAN DUTRA** questioned whether the trees located on the north side of Waterford Park will be removed and replaced with what type of screening.

Mr. Darrow addressed Mr. Dutra's question and stated that arborvitae will be used as a type of screening.

**BOONTHONG PURTHIMATAGUL** testified that she is concerned regarding the retaining wall along the southern property line.

Chairman Doukas pointed out that there will be two retaining walls separated by a property line and noted maintenance responsibilities will fall under the person or parties responsible for their particular area.

Ms. Purthimatagul questioned the distance between the future property owners house and retaining wall to her property.

Chairman Doukas responded that from the future property owners building to Ms. Purthimatagul's property line will be at least 10 feet.

**CHARLOTTE DENIS** testified that she resides in the Waterford Park development. She referred to the detail map that indicated the Waterford Park site, and questioned why Waterford Park was marked off as part of the proposed site, and whether said site was being sold as property. She expressed her concern regarding the timing for the start of the proposed development and the drainage on the SE triangular lot. She also questioned if there will be a connection to 157<sup>th</sup> from the Waterford Park development.

**WILLIAM RIGHTER** testified regarding the asphalt pathway on the SW corner of 158<sup>th</sup>. He also expressed his concern regarding the proposed path behind the east side of the Redstone development which he feels would create security and privacy issues. He's in support of preserving existing trees to provide screening along the proposed pathway.

### **APPLICANT'S REBUTTAL**

Mr. Tyler addressed the neighbors concerns. He stated that care will be taken to preserve as many trees, to the extent possible on the proposed site. In response to the retaining wall issue, he explained that since no fencing was proposed along the property line, screening will be provided through the planting of Arborvitae.

Chairman Doukas questioned the ownership and maintenance of the retaining wall.

Mr. Tyler explained that within the limited common element, responsibility lies with the property owner; within the common element, responsibility lies with the Home Owners Association (HOA).

Mr. Tyler addressed the trees that are along Ms. Plummer's property line. He stated that since the trees appear to be close enough to the property line, there's a good chance that they can be saved, and added that inevitably the trees would have to be removed, but where they could save them, they will.

Chairman Doukas questioned if the trees were unable to be saved would Mr. Tyler feel comfortable with the Arborvitae as a screen.

Mr. Tyler responded that this would be the plan. He addressed Ms. Plummer's and Mr. Righter's concern pertaining to the location of the pathway, and questioned if the Board suggested relocating the pathway to the north side of Units 43-47.

Chairman Doukas stated that this issue will take place during deliberation.

Mr. Straus requested clarification on the distance between the edge of the wetland buffer and the location of the new construction.

Mr. Tyler stated that the distance is 15 feet.

Mr. Straus clarified that there's a 15 foot space between the wetland buffer line and the construction of the new units.

Mr. Tyler responded that there's 15 feet off of the edge of Tract A, and noted that the 15 foot line is a rear yard setback for the units. He added that if they didn't have that they'd be running at a 50 foot setback from the wetland for the wetland buffer, creating a setback on a setback. Staff determined that the best way to accommodate this situation would be to adjust Tract A.

Mr. Straus noted that the applicant still have the requirement for a certain buffer distance from the resource. He requested clarification on what space there is available between the edge of the buffer and what the applicant was constructing in which an alternative location for pedestrian path could be located. He stated that the applicant may be designated something there as backyard for the units, but then the Board may decide that a portion of the backyard need to be provided for pedestrian access that's not private property for those units, and added that what the applicant's design suggests is not that any of those units will have a private backyard; the Board needs to make sure that there is some provision in the applicant's CC & R's stating that they cannot construct a fence to separate them at any point in that space.

Mr. Tyler responded that the applicant worked with CWS and fine-tuned the site plan to minimize the impacts on the wetland resource. After extensive revisions to the site plan, and a reduction to the minimum density, CWS approved the revised site plan.

Chairman Doukas requested clarification regarding the part of the site plan that Clean Water Services was partial to.

Mr. Tyler responded that it was the minimization of buffer impacts.

Chairman Doukas questioned if the applicant discussed with Clean Water Services the idea of using a wood chip trail as opposed to a giant asphalt concrete path.

Mr. Tyler responded that the wood chip trail suggestion was not discussed, and noted that the suggestion would be acceptable to the applicant.

Chairman Doukas requested that staff and the applicant coordinate with Clean Water Services to determine the specific alignment of the path.

Ms. Jones recommended that the Board structure the condition to be specific regarding the pedestrian access way connection to the area west of the property, either connecting to the existing access way or the street stub.

Mr. Tyler addressed the issue concerning the water treatment facility located in Waterford Park. He noted that said facility was dedicated to the City by the developer, and that the City owns this facility. He added that the City and the developer's engineers have indicated that once revitalized it will function better than it is currently functioning. He stated that the applicant will be happy to provide notice to the neighbors regarding when construction will start.

Chairman Doukas recommended that the applicant contact the Neighborhood Association to specify the timing and improvements for the Waterford Park water treatment facility.

Chairman Doukas asked if there were further comments from staff.

Ms. Jones reiterated the issues that were previously discussed and requested that the Board consider additional Conditions of Approval pertaining to the following:

- Maintenance of the Arborvitae along the property lines to ensure that those would remain as intended.
- CC&R's should include language regarding maintenance requirements for the project and should specify the responsibility party for maintenance of the fence and landscaping along the property lines.
- Condition of Approval regarding the landscape bond. The objective was to have an assurance that landscaping for the entire property, including Limited Common Areas (LCE) be installed as the applicant proposed, within 6 months from the time of occupancy.

Mr. Straus suggested having separate bonds, one for the common landscaping areas and a separate bond for the limited.

Chairman Doukas expressed her opinion that it should be written to segment the landscape bond, adding that this will give one the ability to segment however it works for them.

Senior Planner John Osterberg recommended against the landscape bond that could create a situation where each and every homeowner will contact the City and then want partial release. He added that each time the City would have to perform an inspection and stated that there's a policy against this practice not providing for individual homeowner releases at multiple times.

Chairman Doukas closed the public hearing.

Mr. Straus **MOVED** and Ms. Shipley **SECONDED** a motion to **APPROVE** SDM2003-0011 – Cottage Terrace Condominiums, based upon the testimony, reports, and exhibits,

and new evidence presented during the Public Hearings on the matter, and upon the background facts, findings and conclusions found in the Staff Reports dated March 25, 2004, including Conditions No's 1-4.

Motion **CARRIED** by the following vote:

**AYES:** Straus, Shipley, Weathers and Doukas.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Antonio, Beighley, and Nardozza.

Mr. Straus **MOVED** and Ms. Shipley **SECONDED** a motion to **APPROVE** LD2003-0034 – Cottage Terrace Condominiums, based upon the testimony, reports, and exhibits, and new evidence presented during the Public Hearings on the matter, and upon the background facts, findings and conclusions found in the Staff Reports dated March 25, 2004, including Conditions No's 1-5.

Motion **CARRIED** by the following vote:

**AYES:** Straus, Shipley, Weathers and Doukas.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Antonio, Beighley, and Nardozza.

Mr. Straus **MOVED** a motion to approve DR2003-0063 Cottage Terrace Condominiums based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated March 25, 2004, including Conditions of Approval Nos. 1-31 with the following nullifications and additions.

- Condition Nos. 21 and 22 which are properly addressed under the Tree Preservation plan to be submitted at a future date to be deleted.
- Condition No. 23 to be modified by adding the words, 'Common Element (CE)' in the first sentence after the word 'as.' After the word "landscaping" in line 5, add the words 'not so installed.' The final wording would be: "All landscaping including the areas designated as Common Element (CE) Limited Common Element (LCE), street trees, and fencing approved by the decision making body for residential development shall be installed prior to issuance of occupancy permits unless a performance security equal to 110 percent of the cost of the landscaping not so installed is filed with the City assuring such installation within six months of occupancy . . ."
- Addition to Condition No. 32 per the staff memo dated April 1, 2004.
- Condition No. 33: Relocate the pedestrian connection to the north side of units 43-47. Due to its location in the wetland buffer area, the material for the path maybe other than impervious. If Clean Water Services (CWS) does not allow the path to be located in this matter, the path shall be deleted.

- Condition No. 34: Install fencing in those portions along the south property line where fencing is not currently installed to match fencing installed in the adjoining development.
- Condition No. 35: The Home Owners Association (HOA) bylaws shall stipulate responsibility for maintenance of landscaping in the limited common areas and shall provide means of enforcing of such maintenance acceptable to the City of Beaverton staff.

Senior Planner John Osterberg interjected to clarify that Condition No. 33 as stated has to do with the pathway and moving the proposed pathway to a different location. He pointed out that since Condition No. 33 was required by the Facilities Review Conditions, then one would assume that the motion maker is intending to also modify Conditions No. 20 since Condition No. 20 adopts the Facility Review conditions. He noted that this will be written into the Land Use Order and brought back to the Board of Design Review.

Chairman Doukas stated that the motion had been amended. Mr. Straus **MOVED** and Ms. Shipley **SECONDED**.

Chairman Doukas commented that Condition No. 35 was specific only to the landscaping in the LCE areas, and questioned about the maintenance of the retaining walls.

Mr. Straus concurred with Chairman Doukas and suggested to amend Condition No. 35 to include everything within the LCE areas and that this would need to be stipulated as the responsibility of the individual homeowner. He stated that the intent would be to tie specific responsibility for the landscaping, adding that this is not something that is being installed by the developer, such as the retaining wall and irrigation. He stated that the developer would need to convey the responsibility over to the homeowner since there will be no landscaping and noted that the Board needs to assure that landscaping will happen.

Referring to the previous discussion regarding the screening and Arborvitae, Chairman Doukas noted that the landscape plan shows the Arborvitae, but questioned whether the Board can make a specific condition that would require the tree preservation along the perimeter where possible, and if it is not possible, then the Arborvitae screen shall be used consistently with the rest of the development.

Responding to Chairman Doukas, Mr. Straus questioned if the discussion should be limited to the pine trees along the western end of the south side or to the perimeter of the site.

Chairman Doukas responded that it should be for the perimeter of the site.

Mr. Straus observed that the more appropriate application to address the possibility of tree preservation is within the associated Tree Plan Two application, and that staff will



review the proposal and coordinate with the applicant and representing arborist to retain as many trees as possible.

Mr. Straus **MOVED** and Ms. Shipley **SECONDED** to amend the main motion to include Condition No. 36 which will state, "The applicant shall endeavor to retain maximum number of existing trees along the perimeter of the site and where not possible shall substitute screening of arborvitae similar to that proposed at other locations along the perimeter in the landscape plan."

Motion **CARRIED** by the following vote:

**AYES:** Straus, Shipley, Weathers and Doukas.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Antonio, Beighley, and Nardozza.

#### **APPROVAL OF MINUTES:**

The minutes of February 12, 2004, as written, were submitted. Ms. Shipley **MOVED** and Ms. Weathers **SECONDED** that the minutes be adopted as written and submitted.

**AYES:** Shipley, Weathers and Doukas.  
**NAYS:** None.  
**ABSTAIN:** Straus.  
**ABSENT:** Antonio, Beighley, and Nardozza.

The minutes of February 19, 2004, as written, were submitted. Ms. Shipley **MOVED** and Mr. Straus **SECONDED** that the minutes be adopted as written and submitted.

**AYES:** Shipley, Straus, and Weathers.  
**NAYS:** None.  
**ABSTAIN:** Doukas.  
**ABSENT:** Antonio, Beighley, and Nardozza.

#### **MISCELLANEOUS BUSINESS:**

Chairman Doukas announced that Board member Cecelia Antonio has resigned.

The meeting adjourned at 9:35 p.m.